

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

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**THIS DOCUMENT RELATES TO:**

*United States of America, ex rel. Ven-a-Care  
of the Florida Keys, Inc., v. Abbott  
Laboratories, Inc.,*  
CIVIL ACTION NO. 06-CV-11337-PBS

)  
)  
) MDL No. 1456

) Civil Action No. 01-12257-PBS  
)

) Hon. Patti B. Saris  
)

) Magistrate Judge Marianne B. Bowler  
)  
)  
)

**UNITED STATES' MOTION TO COMPEL  
THE PRODUCTION OF DOCUMENTS DEPOSITION TESTIMONY**

The United States of America, through its undersigned counsel, respectfully files this Motion to Compel the Production of Documents from Abbott Laboratories Inc. (Abbott) and the Deposition Testimony of Duane Burnham and Thomas Hodgson. The fact discovery deadline of March 31, 2008 has arrived and Abbott has fallen short of providing certain key evidence before this date. As the discovery period has wound down in this matter, the United States has asked Abbott repeatedly for the documents and testimony that is at issue in the motion; the United States could not secure from Abbott commitments either to provide the documents and testimony or to provide them in a timely manner.

The failure to provide timely this evidence threatens to undermine deadlines in Case Management Order 29, most immediately the plaintiffs' April 30, 2008 deadline for expert reports and disclosures. For this and other reasons set forth in the accompanying Memorandum of Law, the United States requests that this Court require Abbott to produce specific categories of relevant documents and to compel testimony from Mr. Burnham and Mr. Hodgson within ten days.

Respectfully submitted,

For the United States of America,

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Dated: March 31, 2008

### CERTIFICATION

The undersigned counsel certifies pursuant to LR 7.1(a)(2) that he has conferred with counsel for the Defendant Abbott on the issues raised in this motion and have not been able to reach agreement.

Dated: March 31, 2008

/s/ Gejaa T. Gobena  
Gejaa T. Gobena

### CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above **United States' Motion to Compel**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: March 31, 2008

/s/ Gejaa T. Gobena  
Gejaa T. Gobena